HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1006 (S/S) 2005

Chandra Prakash Maurya
S/o Sitla Prasad Maurya,
Presently posted as Assistant Physical Teacher,
G.I.C. Fauzi Matkota, District U.S. Nagar. ----Petitioner

Vs.

1. State of Uttaranchal, through
   Education Secretary, Dehradun,
2. Director of Education, Dehradun,
3. Joint Director, Kumaon Mandal, Nainital,
4. D.I.O.S., Udham Singh Nagar. ----Respondents.

Sri M.S. Pal, learned counsel for the petitioner
Learned Standing Counsel for respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri M.S. Pal, learned counsel for the petitioner and learned Standing Counsel for the State/respondents.

The petitioner has challenged the transfer order dated 30th June 2005 passed by Joint Director of Education, Kumoun Mandal, Nainital by which he was transferred from Govt. Inter College Fauzi Matkota, district Udham Singh Nagar to Govt. Higher Secondary School, Talli Seti, district Nainital against the newly created post.

The petitioner has challenged the impugned order on two grounds firstly, that he has been transferred from district Udham Singh Nagar to district Nainital treating him to be in the category of a teacher in inconsistent subject and secondly, that his wife, who is also a Government Servant in district Rampur, is suffering from heart ailment. So far the second ground taken by the petitioner, is concerned the petitioner could not show certificate of any competent doctor indicating that the ailment of his wife is serious in nature. In regard to the first ground on which the petitioner has attached the impugned order is that he has been transferred treating him to be a teacher working sagainst the inconsistent subject. Contention of the petitioner is

that he was posted in Govt. Inter College, Fauzi Matkota, Udham Singh Nagar as Physical Instructor as he possess D.P.Ed. and was appointed in 1985 as Physical Teacher. No other teacher except the petitioner is working or was posted as Physical Teacher in Govt. Inter College, Fauzi Matkota and, as such, this transfer order has been passed on wrong impression that the petitioner is working in the Institution against inconsistent subject.

The petitioner has submitted that he may be permitted to make representation to the Director of Education and he may be directed to decide the same within a particular period and further that till the decision is taken on the representation, he may be permitted to continue at G.I.G. Fauzi Matkota, district Udham Singh Nagar.

Considering the facts of the case, I find it just and proper to direct the respondent no. 2 i.e. the Director of Education to take decision on the representation within a period of two weeks from the date of submission of representation before the Director.

Accordingly, the petitioner is directed to make representation within a period of one week from today before the Director of Education/respondent no. 2 who shall take decision on the representation within a period of two weeks from the date of submission of representation before him. Till the decision is taken, the petitioner may continue at G.I.C. Fauzi Matkota, district Udham Singh Nagar, provided he has not already been relieved.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

July 21, 2005:
NCM: